

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Washington, D.C. 20231

Attorney Docket No.: 16528A-038900US

Client Reference No.: 2097

PATENT

On September 1, 2000

TOWNSEND and TOWNSEND and CREW LLP

By: Cornie Larson

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Reidhaar-Olson, John F.

Application No.: 09/489,220

Filed: January 21, 2000

For: TOXICANT-INDUCED
DIFFERENTIAL GENE EXPRESSION

Examiner: Lu, Frank

Art Unit: 1655

PRELIMINARY AMENDMENT AND
RESPONSE TO RESTRICTION
REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Prior to examination of the above-referenced application, please enter the following amendments and remarks.

AMENDMENT

IN THE CLAIMS:

Please amend claim 1, line 3 by replacing the word "one" with the word "two".

RESPONSE TO RESTRICTION REQUIREMENT

In response to the restriction requirement mailed August 1, 2000, Applicant elects, with traverse, to prosecute Group I, which includes claims 1-19 that are directed towards methods of expression profiling.



#5
B. Weid
9/20/00

The foregoing election is made with traverse because the Examiner has failed to establish that examining the claims of Group I and Group III (claim 28) would constitute a serious burden on the U.S. Patent Office. As the Examiner indicates, the claims of Group I and Group III are both drawn to methods of expression profiling. Further, since the major part of the search for both Group I and II will involve searching the same sequences, it would not be an undue burden on the Patent Office for the Examiner to examine the claims from both Groups I and III. For these reasons, Applicant respectfully requests that the restriction requirement as to Groups I and III be withdrawn.

NOTICE TO COMPLY

A response to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures is enclosed herewith.

REMARKS

Claims 1-28 are pending. With this amendment, Applicant has elected, with traverse, Group I including claims 1-19.

Claim 1 has simply been amended to make the reference to the number of nucleic acids for which an expression level is being determined consistent between lines 2 and 3. No new matter is introduced by this amendment.

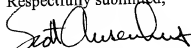
CONCLUSION

If the Examiner believes a telephone conference would expedite prosecution of

Reidhaar-Olson, John F.
Application No.: 09/489,220
Page 3

this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



Scott L. Ausenhus
Reg. No. 42,271

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
SLA
DE 7022340 v1